

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**JOHN SMALL,**

**Plaintiff,**

**v.**

**Civil Action No. 2:08cv1  
(Judge Maxwell)**

**POTOMAC HIGHLANDS REGIONAL JAIL,**

**Defendants.**

**ORDER DENYING PLAINTIFF'S MOTION  
FOR APPOINTED COUNSEL**

On January 2, 2008, *pro se* plaintiff, Josh Small, filed the above-styled action pursuant to 42 U.S.C. §1983. On January 9, 2008, he filed a motion for appointment of counsel. In contrast to a criminal proceeding in which the Court has a duty to assign counsel to represent an indigent defendant in accordance with his constitutional rights, the Court in a civil case has the discretion to request an attorney to represent a person unable to employ counsel. See 28 U.S.C. §1915(e)(1). It is well settled that in a civil action the Court should appoint counsel to represent an indigent only after a showing of a particular need or exceptional circumstances. Cook v. Bounds, 518 F.2d 779 (4<sup>th</sup> Cir. 1975). “The question of whether such circumstances exist in any particular case hinges on characteristics of the claim and the litigant.” Whisenant v. Yuam, 739 F.2d 160, 163 (4<sup>th</sup> Cir. 1984).

Upon review of the complaint and the Motion, the undersigned is of the opinion that the plaintiff has failed to show a particular need or exceptional circumstances that would require the assistance of a trained practitioner. Accordingly, the plaintiff’s motion for appointment of counsel

(Doc. 7) is hereby **DENIED**.

IT IS SO ORDERED.

The Clerk of the Court is directed to send a copy of this Order to the *pro se* plaintiff.

DATED: January 10, 2008

/s/ James E. Seibert  
JAMES E. SEIBERT  
UNITED STATES MAGISTRATE JUDGE